

REMARKS

Status of Claims

Claims 13-24 are pending and have been rejected by the Examiner. Claims 13 and 16-21 are amended herein and claim 15 has been cancelled. Accordingly, claims 13, 14 and 16-24 are presented and at issue. Reconsideration and allowance of the application in view of the foregoing amendments and following remarks are respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 13-24 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication 2001/0037453 to Mitty et al. Based on the amendments to claim 13, applicants respectfully traverse this rejection.

Claim 13, as amended, is directed to a method for instant messaging that includes formulating a combined message to a recipient, said combined message including a predictive code and a communications message. Claim 13 includes the newly added limitation of establishing a state variable associated with said recipient, wherein said state variable includes a function. In addition, claim 13 recites transmitting said predictive code and said communications message to a recipient, executing the predictive code at the recipient, and delivering the communications message to the recipient if the predictive code returns a first value and discarding the communications if the predictive code returns a second value.

The newly added limitation to claim 13 was original found in claims 15 and 18. (The remaining amendments to the claims are merely to bring them in conformance with amended claim 13).

In the Office Action, claim 15 was rejected based on the paragraphs 32 and 86 of Mitty. Claim 18 was rejected based on paragraphs 86 and 59. Applicants have examined these paragraphs and, while Applicants admit that other portions claims 15 and 18 are taught by Mitty, the cited sections do not teach or suggest establishing a state variable associated with a recipient, wherein the state variable includes a function. Indeed, the

cited paragraphs (as well as the remainder of Mitty) does not teach or suggest a state variable that includes a function at all. As such, Mitty does not anticipate or render obvious claim 13 as now presented.

Claims 15-24 depend from claim 13 and, as such, are patentable for at least the same reasons.

Conclusion

In view of the foregoing amendments and remarks, it is submitted that the application is now in condition for allowance. Such action is therefore respectfully requested.

If a communication with Applicant's Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 09-0463. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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Dated this 30th day of September, 2008

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